

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation has been very eloquently pursued by the minority and the majority and I would ask that S. 468 be adopted by this body. We did it before. Let us do it again. It is the right thing to do.

COMMITTEE ON TRANSPORTATION  
AND INFRASTRUCTURE,  
Washington, DC, October 26, 1999.

Hon. DAN BURTON,  
Chairman, Committee on Government Reform,  
Rayburn House Office Building, Washington,  
DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in H.R. 2513, a bill to direct the Administrator of General Services to acquire a building in Terre Haute, Indiana.

Our Committee recognizes the importance of H.R. 2513 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee.

With warm personal regards, I remain.

Sincerely,

BUD SHUSTER,  
Chairman.

COMMITTEE ON GOVERNMENT REFORM,  
Washington, DC, November 1, 1999.

Hon. BUD SHUSTER,  
Chairman, Committee on Transportation and  
Infrastructure, Rayburn House Office  
Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of October 26, 1999 regarding H.R. 2513 a bill directing the Administrator of General Services to acquire a building located in Terre Haute, Indiana.

I agree that the Committee on Transportation and Infrastructure has valid jurisdictional claims to certain provisions in this legislation, and I am most appreciative of your decision not to request such a referral in the interest of expediting consideration of the bill. I agree that by foregoing a sequential referral, the Committee on Transportation and Infrastructure is not waiving its jurisdiction. Further, as you requested, this exchange of letters will be included in the record during floor consideration of this bill.

Thank you for your cooperation in this matter.

Sincerely,

DAN BURTON,  
Chairman.

COMMITTEE ON GOVERNMENT REFORM,  
Washington, DC, October 29, 1999.

Hon. J. DENNIS HASTERT,  
Speaker, Washington, DC.

DEAR MR. SPEAKER: In the interest of expediting floor consideration of H.R. 2513, a bill to direct the Administrator of the General Services to acquire a building located in Terre Haute, Indiana, and for other purposes, the Committee on Government Reform does not intend to exercise its jurisdiction over this bill.

Originally, the bill was scheduled to be marked up by the committee on September 30th. Congressman Horn and Congressman Waxman, however, agreed to give GSA an-

other thirty days before passing H.R. 2513. After thirty days, both resolved that the bill could be considered on the House floor.

As you know, House Rule X, Establishment and Jurisdiction of Standing Committees, grants the Government Reform Committee with jurisdiction over "government management and accounting measures, generally." Our decision not to exercise the Committee's jurisdiction over this measure is not intended or designed to waive or limit our jurisdiction over any future consideration of related matters.

Thank you for your assistance, and I look forward to working with you throughout the 106th Congress.

Sincerely,

DAN BURTON,  
Chairman.

Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. TURNER. Mr. Speaker, I too would urge adoption of this very good bipartisan piece of legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and pass the Senate bill, S. 468, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 170) to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 170

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Mail Prevention and Enforcement Act".

##### SEC. 2. RESTRICTIONS ON MAILINGS USING MISLEADING REFERENCES TO THE UNITED STATES GOVERNMENT.

Section 3001 of title 39, United States Code, is amended—

(1) in subsection (h)—

(A) in the first sentence by striking "contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement" and inserting the following: "which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection

or status afforded such matter by the Federal Government"; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "and" at the end;

(ii) in subparagraph (B) by striking "or" at the end and inserting "and"; and

(iii) by inserting after subparagraph (B) the following:

"(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or";

(2) in subsection (i) in the first sentence—

(A) in the first sentence by striking "contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement" and inserting the following: "which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government"; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "and" at the end;

(ii) in subparagraph (B) by striking "or" at the end and inserting "and"; and

(iii) by inserting after subparagraph (B) the following:

"(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any contribution or noncontribution; or";

(3) by redesignating subsections (j) and (k) as subsections (m) and (n), respectively; and

(4) by inserting after subsection (i) the following:

"(j)(1) Any matter otherwise legally acceptable in the mails which is described in paragraph (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(2) Matter described in this paragraph is any matter that—

"(A) constitutes a solicitation for the purchase of or payment for any product or service that—

"(i) is provided by the Federal Government; and

"(ii) may be obtained without cost from the Federal Government; and

"(B) does not contain a clear and conspicuous statement giving notice of the information set forth in clauses (i) and (ii) of subparagraph (A)."

SEC. 3. RESTRICTIONS ON SWEEPSTAKES AND DECEPTIVE MAILINGS.

Section 3001 of title 39, United States Code, is amended by inserting after subsection (j) (as added by section 2(4) of this Act) the following:

"(k)(1) In this subsection—

"(A) the term 'clearly and conspicuously displayed' means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

"(B) the term 'facsimile check' means any matter that—

"(i) is designed to resemble a check or other negotiable instrument; but

“(ii) is not negotiable;  
 “(C) the term ‘skill contest’ means a puzzle, game, competition, or other contest in which—

“(i) a prize is awarded or offered;  
 “(ii) the outcome depends predominately on the skill of the contestant; and

“(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

“(D) the term ‘sweepstakes’ means a game of chance for which no consideration is required to enter.

“(2) Except as provided in paragraph (4), any matter otherwise legally acceptable in the mails which is described in paragraph (3) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

“(3) Matter described in this paragraph is any matter that—

“(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

“(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

“(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual's chances of winning with such entry;

“(III) does not state all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes;

“(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

“(V) does not contain sweepstakes rules that state—

“(aa) the estimated odds of winning each prize;

“(bb) the quantity, estimated retail value, and nature of each prize; and

“(cc) the schedule of any payments made over time;

“(VI) represents that individuals not purchasing products or services may be disqualified from receiving future sweepstakes mailings;

“(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product or service previously ordered;

“(VIII) represents that an individual is a winner of a prize unless that individual has won such prize; or

“(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures;

“(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

“(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest;

“(II) does not disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

“(III) does not contain skill contest rules that state, as applicable—

“(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

“(bb) that subsequent rounds or levels will be more difficult to solve;

“(cc) the maximum cost to enter all rounds or levels;

“(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

“(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

“(ff) the method used in judging;

“(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

“(hh) the quantity, estimated retail value, and nature of each prize; and

“(ii) the schedule of any payments made over time; or

“(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

“(4) Matter that appears in a magazine, newspaper, or other periodical shall be exempt from paragraph (2) if such matter—

“(A) is not directed to a named individual; or

“(B) does not include an opportunity to make a payment or order a product or service.

“(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed. Any statement, notice, or disclaimer required under subclause (I) or (II) of paragraph (3)(A)(ii) shall be displayed more conspicuously than would otherwise be required under the preceding sentence.

“(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope or outside cover or wrapper in which those materials are mailed.

“(1)(1) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, or individual with power of attorney—

“(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

“(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

“(ii) that attorney general transmits such request to the mailer.

“(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer.”

#### SEC. 4. POSTAL SERVICE ORDERS TO PROHIBIT DECEPTIVE MAILINGS.

Section 3005(a) of title 39, United States Code, is amended—

(1) by striking “or” after “(h),” each place it appears; and

(2) by inserting “(j), or (k)” after “(i)” each place it appears.

#### SEC. 5. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.

(a) IN GENERAL.—Section 3007 of title 39, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking subsection (a) and inserting the following:

“(a)(1) In preparation for or during the pendency of proceedings under section 3005, the Postal Service may, under the provisions of section 409(d), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

“(2)(A) Upon a proper showing, the court shall enter an order which shall—

“(i) remain in effect during the pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

“(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under section 3005.

“(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005.

“(3) Mail detained under paragraph (2) shall—

“(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

“(B) be delivered as addressed if such mail is not clearly shown to be the subject of proceedings under section 3005.

“(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

“(b) If any order is issued under subsection (a) and the proceedings under section 3005 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued.”

(b) REPEAL.—

(1) IN GENERAL.—Section 3006 of title 39, United States Code, and the item relating to such section in the table of sections for chapter 30 of such title are repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 3005(c) of title 39, United States Code, is amended by striking “section and section 3006 of this title,” and inserting “section.”

(B) Section 3011(e) of title 39, United States Code, is amended by striking “3006, 3007,” and inserting “3007”.

#### SEC. 6. CIVIL PENALTIES AND COSTS.

Section 3012 of title 39, United States Code, is amended—

(1) in subsection (a) by striking “\$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection,” and inserting “\$50,000 for each mailing of less than 50,000 pieces; \$100,000 for each mailing of 50,000 to 100,000 pieces; with an additional \$10,000 for each additional 10,000 pieces above 100,000, not to exceed \$2,000,000.”;

(2) in paragraphs (1) and (2) of subsection (b) by inserting after “of subsection (a)” the following: “(c), or (d)”;

(3) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and

(4) by inserting after subsection (b) the following:

“(c)(1) In any proceeding in which the Postal Service may issue an order under section 3005(a), the Postal Service may in lieu of

that order or as part of that order assess civil penalties in an amount not to exceed \$25,000 for each mailing of less than 50,000 pieces; \$50,000 for each mailing of 50,000 to 100,000 pieces; with an additional \$5,000 for each additional 10,000 pieces above 100,000, not to exceed \$1,000,000.

“(2) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil penalty taking into account the nature, circumstances, extent, and gravity of the violation or violations of section 3005(a), and with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such section, the degree of culpability and other such matters as justice may require.

“(d) Any person who violates section 3001(l) shall be liable to the United States for a civil penalty not to exceed \$10,000 for each mailing to an individual.”

#### SEC. 7. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

##### “§ 3016. Administrative subpoenas

“(a) SUBPOENA AUTHORITY.—

“(1) INVESTIGATIONS.—

“(A) IN GENERAL.—In any investigation conducted under section 3005(a), the Postmaster General may require by subpoena the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material to such investigation.

“(B) CONDITION.—No subpoena shall be issued under this paragraph except in accordance with procedures, established by the Postal Service, requiring that—

“(i) a specific case, with an individual or entity identified as the subject, be opened before a subpoena is requested;

“(ii) appropriate supervisory and legal review of a subpoena request be performed; and

“(iii) delegation of subpoena approval authority be limited to the Postal Service's General Counsel or a Deputy General Counsel.

“(2) STATUTORY PROCEEDINGS.—In any statutory proceeding conducted under section 3005(a), the Judicial Officer may require by subpoena the attendance and testimony of witnesses and the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Judicial Officer considers relevant or material to such proceeding.

“(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be considered to apply in any circumstance to which paragraph (1) applies.

“(b) SERVICE.—

“(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

“(2) FOREIGN SERVICE.—Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with

this section by such person that such court would have if such person were personally within the jurisdiction of such court.

“(3) SERVICE ON BUSINESS PERSONS.—Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

“(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

“(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

“(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

“(4) SERVICE ON NATURAL PERSONS.—Service of any subpoena may be made upon any natural person by—

“(A) delivering a duly executed copy to the person to be served; or

“(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

“(5) VERIFIED RETURN.—A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

“(c) ENFORCEMENT.—

“(1) IN GENERAL.—Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the Postmaster General may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

“(2) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this section by any court may be punished as contempt.

“(d) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5.”

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this section, the Postal Service shall promulgate regulations setting out the procedures the Postal Service will use to implement the amendment made by subsection (a).

(c) SEMIANNUAL REPORTS.—Section 3013 of title 39, United States Code, is amended by striking “and” at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following:

“(5) the number of cases in which the authority described in section 3016 was used,

and a comprehensive statement describing how that authority was used in each of those cases; and”.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

“3016. Administrative subpoenas.”.

#### SEC. 8. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code (as amended by section 7 of this Act) is amended by adding after section 3016 the following:

##### “§ 3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

“(a) DEFINITIONS.—In this section—

“(1) the term ‘promoter’ means any person who—

“(A) originates and mails any skill contest or sweepstakes, except for any matter described in section 3001(k)(4); or

“(B) originates and causes to be mailed any skill contest or sweepstakes, except for any matter described in section 3001(k)(4);

“(2) the term ‘removal request’ means a request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

“(3) the terms ‘skill contest’, ‘sweepstakes’, and ‘clearly and conspicuously displayed’ have the same meanings as given them in section 3001(k); and

“(4) the term ‘duly authorized person’, as used in connection with an individual, means a conservator or guardian of, or person granted power of attorney by, such individual.

“(b) NONMAILABLE MATTER.—

“(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described in paragraph (2)—

“(A) is nonmailable matter;

“(B) shall not be carried or delivered by mail; and

“(C) shall be disposed of as the Postal Service directs.

“(2) NONMAILABLE MATTER DESCRIBED.—Matter described in this paragraph is any matter that—

“(A) is a skill contest or sweepstakes, except for any matter described in section 3001(k)(4); and

“(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (d); or

“(ii) does not comply with subsection (c)(1).

“(c) REQUIREMENTS OF PROMOTERS.—

“(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a statement that—

“(A) is clearly and conspicuously displayed;

“(B) includes the address or toll-free telephone number of the notification system established under paragraph (2); and

“(C) states that the notification system may be used to prohibit the mailing of all skill contests or sweepstakes by that promoter to such individual.

“(2) NOTIFICATION SYSTEM.—Any promoter that mails or causes to be mailed a skill contest or sweepstakes shall establish and maintain a notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

“(d) ELECTION TO BE EXCLUDED FROM LISTS.—

“(1) IN GENERAL.—An individual (or other duly authorized person) may elect to exclude the name and address of that individual from all lists of names and addresses used by a promoter of skill contests or sweepstakes by submitting a removal request to the notification system established under subsection (c).

“(2) RESPONSE AFTER SUBMITTING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 60 calendar days after a promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall exclude the individual's name and address from all lists of names and addresses used by that promoter to select recipients for any skill contest or sweepstakes.

“(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall remain in effect, unless an individual (or other duly authorized person) notifies the promoter in writing that such individual—

“(A) has changed the election; and

“(B) elects to receive skill contest or sweepstakes mailings from that promoter.

“(e) PRIVATE RIGHT OF ACTION.—

“(1) IN GENERAL.—An individual who receives one or more mailings in violation of subsection (d) may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

“(A) an action to enjoin such violation,

“(B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or

“(C) both such actions.

It shall be an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent mailings in violation of subsection (d). If the court finds that the defendant willfully or knowingly violated subsection (d), the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

“(2) ACTION ALLOWABLE BASED ON OTHER SUFFICIENT NOTICE.—A mailing sent in violation of section 3001(l) shall be actionable under this subsection, but only if such an action would not also be available under paragraph (1) (as a violation of subsection (d)) based on the same mailing.

“(f) PROMOTER NONLIABILITY.—A promoter shall not be subject to civil liability for the exclusion of an individual's name or address from any list maintained by that promoter for mailing skill contests or sweepstakes, if—

“(1) a removal request is received by the promoter's notification system; and

“(2) the promoter has a good faith belief that the request is from—

“(A) the individual whose name and address is to be excluded; or

“(B) another duly authorized person.

“(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

“(1) IN GENERAL.—

“(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) derived from a list described in subparagraph (B) to another person for commercial use.

“(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) compiled from individuals who exercise an election under subsection (d).

“(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed \$2,000,000 per violation.

“(h) CIVIL PENALTIES.—

“(1) IN GENERAL.—Any promoter—

“(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of \$10,000 per violation for each mailing to an individual of nonmailable matter; or

“(B) who fails to comply with the requirements of subsection (c)(2) shall be liable to the United States.

“(2) ENFORCEMENT.—The Postal Service shall, in accordance with the same procedures as set forth in section 3012(b), provide for the assessment of civil penalties under this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3016 the following:

“3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.”.

(c) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

#### SEC. 9. STATE LAW NOT PREEMPTED.

(a) IN GENERAL.—Nothing in the provisions of this Act (including the amendments made by this Act) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this Act shall be construed to preempt any provision of State or local law.

(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State.

#### SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO REPEALED PROVISIONS.—Section 3001(a) of title 39, United States Code, is amended by striking “1714,” and “1718.”.

(b) CONFORMANCE WITH INSPECTOR GENERAL ACT OF 1978.—

(1) IN GENERAL.—Section 3013 of title 39, United States Code, is amended—

(A) by striking “Board” each place it appears and inserting “Inspector General”; and

(B) in the third sentence by striking “Each such report shall be submitted within sixty days after the close of the reporting period involved” and inserting “Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved”; and

(C) by striking the last sentence and inserting the following:

“The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the Postmaster General under this section include any information relating to activities of the Inspector General.”.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act, and the amendments made by this subsection shall apply with respect to semiannual reporting periods beginning on or after such date of enactment.

(3) SAVINGS PROVISION.—For purposes of any semiannual reporting period preceding the first semiannual reporting period referred to in paragraph (2), the provisions of title 39, United States Code, shall continue to apply as if the amendments made by this subsection had not been enacted.

#### SEC. 11. EFFECTIVE DATE.

Except as provided in section 8 or 10(b), this Act shall take effect 120 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

#### GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 170, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring H.R. 170, as amended, to the floor today and would like to take this opportunity to thank the members of my Subcommittee on the Postal Service for their interest, for their hard work in moving this important legislation, particularly thanking the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for his input in making this bill stronger and of a wider appeal.

Mr. Speaker, I would like to also quote from the testimony of the General Accounting Office at the subcommittee's August 14 meeting, which I think summed it up very well, “When it comes to deceptive mail, which includes sweepstakes and other kinds of mail material,” quote, “consumers' problems appear substantial.”

We are all concerned, Mr. Speaker, with the way sweepstakes mailings entice customers, particularly senior citizens, into making unwanted purchases under the mistaken impression that this will somehow enhance their chances of winning.

As I have stated previously, sweepstakes in and of themselves are not evil. In fact, Mr. Speaker, they are often a marketing tool that are accessed by willing and very satisfied individuals, but experience teaches us that when laws fall short, the dishonest often flock and people ultimately will suffer. Now is the time to correct these shortfalls.

H.R. 170, as amended, was carefully developed with our ranking member,

the gentleman from Pennsylvania (Mr. FATTAH), and the bill's original author, the gentleman from New Jersey (Mr. LOBIONDO). In keeping with H.R. 170's objective of ensuring honesty in sweepstakes mailing, the amended language incorporates and responds to the extensive testimony submitted at the hearing conducted by the Subcommittee on the Postal Service.

The gentleman from New Jersey (Mr. LOBIONDO) is to be commended for championing the necessary changes to our postal laws in this area, and I also, Mr. Speaker, deeply appreciate the assistance of our other colleagues; as I mentioned earlier, the gentleman from Pennsylvania (Mr. FATTAH), the ranking member, but as well the language in this bill reflects the input of others who also introduced legislation, including the gentleman from California (Mr. ROGAN), the gentleman from Florida (Mr. MCCOLLUM), authors of H.R. 237 and H.R. 2678 respectively.

This language is also based upon Senator SUSAN COLLINS' comprehensive bipartisan sweepstakes mailing legislation, which passed in the other body by a 93-to-0 vote on August 2. We certainly are indebted to Ms. COLLINS and to her staff and the other members of the other body for their interest, for their leadership, and for their guidance.

Mr. Speaker, we have drawn from many sources to craft what I believe is a reasonably balanced and effective piece of legislation. H.R. 170, as amended, would establish strong consumer protections to prevent a number of types of deceptive mailings. It would impose various requirements on sweepstakes mailings, skills contests, facsimile checks and mailings made to look like government documents. It would establish as well strong financial penalties, provide the Postal Service with additional authority to investigate and stop deceptive mailings and preserve the ability of States to impose stricter requirements on such mailings.

Mr. Speaker, I would strongly encourage all Members to fully support the legislation before us. We should join with the other body in advancing this important cause. America's consumers, particularly our senior citizens, are counting on us.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first of all commend and congratulate the gentleman from New York (Chairman MCHUGH), and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH) for the very efficient, effective and bipartisan manner in which they have shepherded this legislation through committee.

I also want to commend the gentleman from New Jersey (Mr. LOBIONDO) for the significant role that

he played in making sure that we had a good, strong bill and that we have it before us today.

As a member of the Subcommittee on the Postal Service, I am pleased to join the gentleman from New York (Mr. MCHUGH) in the consideration of H.R. 170, the Honesty in Sweepstakes Act of 1999. When signed into law, the legislation will protect vulnerable consumers from unscrupulous operators of deceptive sweepstakes and stop many of the more abusive practices of the sweepstakes industry.

We in the Congress have learned firsthand the financial and emotional costs to consumers from deceptive and fraudulent sweepstakes. This is a serious problem which plagues our elderly and those on limited budgets. To that end, I am proud to have played a part in the House consideration and markup of the Honesty in Sweepstakes Act of 1999.

Last month, the Subcommittee on the Postal Service marked up H.R. 170 and unanimously approved an amendment in the nature of a substitute offered by the ranking minority member, the gentleman from Pennsylvania (Mr. FATTAH) and the gentleman from New York (Mr. MCHUGH).

Our bill, which closely mirrors sweepstakes legislation passed by the Senate in August, would impose disclosure requirements relating to sweepstakes mailings and skill contests, contests in which a prize is awarded based on skill and a purchase payment or donation is required, concerning rules, terms, conditions, sponsor, place of business of sponsor, odds of winning and other information, to help ensure the consumer has complete information about the contest.

It also prohibits mailings that suggest a connection to the Federal Government or that contain false representations implying that Federal Government benefits or services will be affected by participation or nonparticipation in the contest. It requires that copies of checks sent in any mailing must include a statement on the check itself stating that it is nonnegotiable and has no cash value. It requires certain disclosures to be clearly and conspicuously displayed in certain parts of the sweepstakes and skill contest promotion. It requires sweepstakes companies to maintain individual do-not-mail lists and it gives the Postal Service additional enforcement tools to maintain and investigate and stop deceptive mailings, including the authority to impose civil penalties and subpoenas.

The measure before us today adds two very important and critical provisions. First, we provide the Postal Service with subpoena authority to combat sweepstakes fraud and, in addition, we have limited the scope of subpoena authority to only those provisions of law addressing deceptive mail-

ings and required the Postal Service to develop procedures for the issuance of subpoenas. So the issue of consumer protection, whether it relates to telemarketing fraud or sweepstakes deception, is finally receiving the attention it deserves and I am pleased that we are here today at this point and at this time to pass this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. LOBIONDO) who, as I mentioned during my opening remarks, was really a leader in this effort. Through his initiative, in fact, the question was first brought to the attention of our subcommittee last year and, in large measure, this is a product of his efforts.

Mr. LOBIONDO. Mr. Speaker, let me take a moment to first thank my colleague from New York (Mr. MCHUGH) for his leadership with the subcommittee and particularly on this issue. The hearing that was held really focused in on the problem, I think, in a very specific way and it allowed us to convince many of our colleagues of the importance of this issue.

I want to thank the gentleman from Indiana (Mr. BURTON), the chairman of the full committee, and the gentleman from Illinois (Mr. DAVIS) and the gentleman from Pennsylvania (Mr. FATTAH) for their help, and my colleague, the gentleman from California (Mr. CONDIT), for his help in garnering votes from the other side and support from the other side.

Mr. Speaker, thousands, if not millions, of Americans will receive some sweepstakes mailing today. Most people disregard these mailings as the marketing ploy that they are. Unfortunately, there are a small percentage of consumers who will open the package with excitement and carefully return the enclosures, often with a payment, in the hope of becoming America's latest millionaire.

Most likely to be impacted by these fraudulent and misleading mailings are some of the most vulnerable in our society, our senior citizens. Sadly, these vulnerable consumers are not being duped merely into entering a hopeless contest. They are, in fact, encouraged to purchase goods from these sweepstakes companies in the thought that these purchases will give them a better chance of winning a huge sum of money.

For seniors, most of whom are on a fixed income, this frivolous spending in the hope of winning untold riches is having an especially detrimental effect. There are stories that abound of life savings being lost, of seniors whose lives are devastated because they feel that they have had an opportunity to gain an advantage in a sweepstakes that was never there from the beginning.

My legislation will prohibit many tactics sweepstakes company use to prey on our most vulnerable consumers. Misleading language such as "we would feel better if we were giving the prize to a customer" leads people to believe that a purchase enhances the chances of winning, when it really does not. My bill takes significant steps to prevent vulnerable members of our society from being harmed by predatory sweepstakes companies.

The key provision of H.R. 170 requires that certain clear and easy-to-read honesty disclosures be included in each sweepstakes mailing.

□ 1330

First, each mailing must include language stating that purchase is not necessary to win a prize, nor does it enhance the chances of winning a prize. It additionally requires other important information such as the odds of winning the grand prize to be displayed prominently in the mailing.

The bill would further crack down on cashier's checks and government document look-alikes, which obviously confuse many seniors and have to lead us to conclude it was the intention to mislead and confuse seniors.

So in conclusion, I want to thank all of my colleagues who worked so hard on this. I think we have a chance to make a real difference today with those in our society who have been the recipients of tactics that all of us wish we could change. We can change that today with this legislation.

Again, I urge all my colleagues to support H.R. 170.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as she might consume to the gentlewoman from New York (Ms. SLAUGHTER), who has long been a protector of consumer interests and consumer rights.

Ms. SLAUGHTER. Mr. Speaker, I certainly thank the gentleman from Illinois (Mr. DAVIS) for allowing me to speak, and I appreciate his support.

I want to thank the gentleman from New Jersey (Mr. LOBIONDO) for bringing this to the floor and the gentleman from New York (Mr. MCHUGH) for his support.

Just take a look at this. Right here, it says up at the top, "Attention: Time-sensitive material. Contents to be opened by addressee only. Obstruction of U.S. mail punishable by fines up to \$2,000 and 5 years imprisonment."

Now, imagine, one gets this envelope, which looks very much like the one one's Social Security check comes in, and it has everything in the world to make it look like it came from the government. Official communication, it says up there. Extremely urgent. Respond within 5 business days.

Then over on the back, again, it says, "Documents enclosed intended for the sole use of the addressee. Tampering is a Federal offense."

This chart has been enlarged 4,000 times, and it is still barely readable. The fact that everybody, as the gentleman from New Jersey (Mr. LOBIONDO) said, is getting one of these almost every day in the mail is really a scandal. We know they are designed to confuse and mislead the recipients.

Virginia Tierney from the AARP pointed out in her testimony that these deceptive sweepstakes lead older Americans to send in thousands of dollars from their Social Security checks and lifetime savings because they believe what is often also written on here, "you have automatically won."

But I want to focus a specific provision of this bill that addresses a strong concern of mine, and that is what I just pointed out, that this mail looks as though it has been distributed or endorsed by a government agency.

The companies are sending these facsimile checks usually in window envelopes that are specifically designed to look like the Social Security envelope. This government look-alike mail motivates the senior to at least open the envelope.

I did not hear about this deceptive mailing practice from my constituents because my colleagues may notice that this was addressed to me, this official communication, which I tampered with at my peril.

Now, in very small print back here on the back of the envelope going on for 33 lines is the official rules detailing that this is in reality a sweepstakes solicitation. It is not a private government document carrying great threats. How dare they usurp government authority in an attempt to frighten people.

I have to be honest, I got dizzy counting the number of lines the small print goes on for. That was because I had tried to read this before it was enlarged. A senior citizen would have to enlarge this envelope to poster size like I did before they could read this small print.

This bill would close the loophole and prohibit all mailings that could reasonably look like government documents in any way, shape, or form, period. Sweepstakes companies need to stop misleading the American people, especially our seniors.

It is past time that the House of Representatives votes to stop these deceptive mailings, and I am more than delighted that this bill has come to the floor.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I mentioned to the gentleman from New Jersey (Mr. LOBIONDO), the author, and ratified in my comments, we have had a number of individuals who were early on supporters of this initiative who had drafted their own approaches from which we drew not just moral support, but legislative language and approaches to the bill.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. MCCOLLUM), an individual who has established in this House a well-deserved reputation as a student of the law and one who had a great deal of input and we had a great deal assistance from.

Mr. MCCOLLUM. Mr. Speaker, I really appreciate the gentleman from New York (Mr. MCHUGH) for his work on this bill and bringing it to the floor, and obviously the gentleman from New Jersey (Mr. LOBIONDO) for introducing it.

I do support the bill. It will reform, as we all know, the deceptive sweepstakes mailing and establish consumer protections through financial penalties and by providing the Postal Service with additional authority to investigate and stop such deceptive mailings. It will also allow States to impose stricter requirements as they see fit on such mailings.

We have had a lot of this sort of thing going on in my State of Florida. We have heard so many of examples. One of them is Eustace Hall of Brandon, Florida who told a story of having spent thousands of dollars trying to win a contest to help his daughter pay for law school. Mr. Hall explained he did not understand there was no requirement that he make a purchase to enter the contest.

That is just not right. I would like to think that, after this legislation is enacted, there will not be more cases like Mr. Hall that we see.

We have been such a hotbed on this that I did introduce a bill that the gentleman from New York (Mr. MCHUGH) was referring to, called the Consumers Choice Sweepstakes Protection Act of 1999. It has been incorporated in this bill almost in toto.

It is the legislation that would require that sweepstakes mailers provide a toll free number or mailing address to be used by individuals wishing to have their names removed from mailing lists or be subject to a civil fine of \$1,000 per violation levied by the Postal Service. This legislation was endorsed by the 60 Plus Association and strongly supported by both the AARP and the National Consumers League.

I want to again thank the gentleman from New York (Mr. MCHUGH), the chairman of the Subcommittee on Postal Service, and the gentleman from New Jersey (Mr. LOBIONDO) in working with me today on this and to incorporate this into the bill before us.

I really think what they are doing today in this legislation in H.R. 170 is going to make a big difference in the sweepstakes issue. Most of us read these, and we do fine with it. We understand it. But there are a lot of people who flat out do not. Those who do not want to keep getting these mailings ought to have a chance to say do not send it, and especially the elderly and



their family when they do not want to see these things coming across so regularly as they do and the volumes that do.

So I think the toll free number or the mailing address that is provided in the bill enhances it. Again, I want to thank the gentlemen for incorporating it in the bill.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. GREEN). It has been my experience that whenever there is an issue involving consumers and their protection and rights and the needs of the people, one would find the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. DAVIS) for allowing me to speak today. This is something that is near and dear to each of our hearts as individuals.

A few months ago, the daughter of one of my former constituents, her mother just passed away, came by our office and brought a box. She had been sorting through her mother's things. The box was easily bigger than the podium that I am standing at, Mr. Speaker. It was full of letter after letter from these sweepstakes promotors, offers for her mother.

In each mailing was marked in bold print, "You have won 10 Million Dollars" or "Urgent: Prize Claim Documentation Enclosed" or "Open and Return Immediately For Your Grand Prize."

Not only had this woman's mother opened each and every one of these solicitations, but she had fallen into that trap. She thought, due to the tricky and often misleading wording of the mailings that not only did she have to purchase something to win, but by purchasing items she would increase her chances of winning.

This daughter found not only this box of information, but lots of little things that her mother had bought and literally never opened. Each time she responded, each time she bought some worthless knickknack, each time she thought it would finally pay off, all that would happen is more solicitations came in the mail. It was a vicious cycle. Because if one responds to one, then obviously they sell one's name to other people and other groups.

This is a clear example how the sweepstakes industry has taken advantage and exploited some of our most vulnerable members of our society.

I even have one family member in my district who tried to get their mother off the mailing list until, finally, they sent a letter saying, I am sorry, mom passed away, and it took them two times to do that, to get them to quit sending her sweepstakes information, just so she would stop receiving these awful offers and sending them in.

H.R. 170, the Honesty in Sweepstakes Act, will ensure that the same bold

print, not tiny print that one cannot read, will be used to state that one is not a winner and that purchasing items will not increase one's odds of winning.

It would require that a toll free number be displayed prominently on the mailing. Those who wish to not receive these mailings will be able to call that number and be removed from the company's mailing list.

It also provides for penalties for companies that violate or ignore these rules.

This is a good bill that will help protect not only all Americans, but particularly older Americans, many of whom are spending significant portions of their income on these sucker contests. It will be especially helpful to family members who are care givers to our senior citizens. I hope my colleagues will vote for its passage.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we have heard here today, this bill obviously is addressing concerns that are faced by the entire country, but particularly among senior citizens. As we know, particularly when it comes to the State of New York, many of our seniors move to the south and often Florida. We have had a great deal of input and support by the Florida delegation on both sides of the aisle in this matter.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. FOLEY), who has been very interested in this issue and very supportive.

Mr. FOLEY. Mr. Speaker, let me thank the gentleman from New York (Mr. MCHUGH) for his leadership on this very important issue that affects seniors and affects all Floridians and all Americans.

Sadie Stern Ott, age 76, of Seminole, Florida said that for years she has bought merchandise from sweepstakes companies, even though she knew that she did not have to buy anything to enter the contest.

She says, "They send so many envelopes that say 'Return this certificate, saying what would you like to buy, and your merchandise will be delivered when we visit your home to bring you your prize.'"

Ott said she waited at home for the prize patrol several times, especially after the time she got a letter telling her the contest was down to her and another person. But she never won anything. She said, "I kind of felt that I had been played for a fool."

Ott said she spent several hundred dollars on magazines and knickknacks. Some seniors have spent thousands of dollars. This is exactly the way the sweepstakes companies cheat seniors out of their modest incomes. Using bright, shiny envelopes and promises of winning millions of dollars, these companies get seniors to buy products that they do not need in hopes of winning large cash prizes. In reality, these peo-

ple have little, if any, chance of winning.

At a time when many seniors struggle to pay for rent, food, and prescription medication, this cruel scam is inhumane and ethically indefensible.

My own State of Florida has filed suit against Publisher's Clearinghouse for exactly this activity. The Attorney General has charged the company with unfair trade practices and unlawful game promotions.

In addition, Florida, along with three other States, has already won a \$4 million settlement against another sweepstakes company, American Family Publishers.

Even though law enforcement officials and consumer protection groups send out notices warning against these mail scams, many people are still drawn into their game.

These fraudulent practices by sweepstakes companies could almost be compared to a criminal coming into someone's home and stealing from them.

I would like to give a special word of thanks to the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from California (Mr. CONDIT) for their work on this bill to establish consumer protections and to prevent sweepstakes companies from swindling people, especially seniors, out of their hard-earned money.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will enter into the RECORD a statement from the Executive Office of the President. I will just read a bit of it. "The administration strongly supports H.R. 170, the Deceptive Mail Prevention and Enforcement Act, that will be considered on the Suspension Calendar. H.R. 170 would protect consumers against deceptive mailings and sweepstakes practices and reinforce their rights by establishing standards for disclosure and financial penalties for sponsors who fail to comply with those standards.

"H.R. 170 would establish standards for sweepstakes mailings, skill contests, and facsimile checks. The bill would restrict government look-alike documents and create a uniform notification system to allow individuals to remove their names and addresses from all major sweepstakes mailing lists at one time.

"It would also create strong financial penalties for not disclosing all terms, conditions, rules, and entry procedures of a contest, the continuation of mailings after an individual has requested cessation and the failure to comply with the Postal Service stop order.

"H.R. 170 would increase the authority of the Postal Service to investigate and stop deceptive mailings while permitting States to establish a higher level of protection for consumers.

"Congress has heard evidence of widespread confusion by consumers and

clearly misleading mailings and sweepstakes practices. The administration urges passage of H.R. 170 to protect consumers and address these concerns."

I also would like to acknowledge the interest of the gentleman from New York (Mr. LAFALCE), who has had a great deal of interest in this legislation and had intended to speak with regards to it on the floor today, and also the gentleman from Illinois (Mr. BLAGOJEVICH), who has introduced legislation in this area.

□ 1345

Mr. Speaker, I will just wrap up by suggesting that although some sweepstakes mailings are fair, far too many are not. They deceive consumers into spending money or making purchases, none of which is needed, necessary or required. Savvy marketing techniques and technological advances have allowed sweepstakes promoters to target consumers who respond to the mailings or place orders for products. Mailings often use very aggressive marketing techniques, such as personalizing an address and implying if purchases are not made, the customer may lose her or his preferred customer status. In the most egregious cases, customers have received up to hundreds of mailings a year and spent thousands of dollars ordering items they did not want or need in an attempt to win the big prize.

These deceptive tactics have resulted in thousands of consumer complaints to the Federal Trade Commission, to State Attorneys General, the United States Postal Service, and Members of Congress. Sadly, the victim of these marketing tactics are the elderly, who have difficulty reading the fine print, and believe that in order to be a preferred customer, that they must buy to win that prize.

This is, indeed, an idea now whose time has come. For many years we have looked at this issue and many people have wondered why we have not taken action before. Well, thanks to the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from California (Mr. CONNIT), certainly to the chairman of the subcommittee, the gentleman from New York (Mr. McHUGH) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), we are indeed taking action and we are taking action today.

Mr. Speaker, I submit for the RECORD the letter I mentioned earlier in my remarks.

#### H.R. 170—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

The Administration strongly supports H.R. 170, the Deceptive Mail Prevention and Enforcement Act, that will be considered on the suspension calendar. H.R. 170 would protect consumers against deceptive mailing and sweepstakes practices and reinforce their rights by establishing standards for disclosure and financial penalties or sponsors who fail to comply with those standards.

H.R. 170 would establish standards for sweepstakes mailings, skill contests, and facsimile checks. The bill would restrict "government look-alike" documents and create a uniform notification system to allow individuals to remove their names and addresses from all major sweepstakes mailing lists at one time. It would also create strong financial penalties for: not disclosing all terms, conditions, rules, and entry procedures of a contest; the continuation of mailings after an individual has requested cessation; and the failure to comply with a Postal Service "stop order." In addition, H.R. 170 would increase the authority of the Postal Service to investigate and stop deceptive mailings while permitting States to establish a higher level of protection for consumers.

Congress has heard evidence of widespread confusion by consumers and clearly misleading mailing and sweepstakes practices. The Administration urges passage of H.R. 170 to protect consumers and address these concerns.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, may I inquire of the Chair how much time is remaining?

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from New York (Mr. McHUGH) has 7 minutes remaining.

Mr. McHUGH. Mr. Speaker, I yield 3¼ minutes to the gentleman from Florida (Mr. MILLER), another member of the Florida delegation that has been so supportive in this effort, and also I might add the sometimes the winter Congressman of my mother, who visits from New York State. So we particularly appreciate his support.

Mr. MILLER of Florida. Mr. Speaker, I wish to rise in strong support of the H.R. 170, the Deceptive Mail Prevention and Enforcement Act and thank the gentleman from New York (Mr. McHUGH) and also the gentleman from New Jersey (Mr. LOBIONDO) for their support in bringing this legislation to the floor today.

This legislation will help protect Americans from deceptive sweepstakes mailings and other types of deceptive mailings. This is one of the most important consumer issues to come before the 106th Congress, and I view H.R. 170 as one of the Committee on Government Reform's major accomplishments this year. It is a good bill that all my colleagues, Republicans, Democrats, liberals, conservatives and moderates can support.

Several bills concerning deceptive sweepstakes mailings, including H.R. 170, have been introduced in this Congress. Most of my colleagues have probably heard from constituents who have been victims of these deceptive sweepstakes mailings, and this is particularly true with seniors. And with the large number of seniors in my district, this is a very important piece of legislation, because their stories are heart-breaking.

This is a serious problem that Congress needs to address. And because the

postal service is an entity of the Federal Government, Congress has the legal means and the duty to strengthen the law against fraudulent mailings. And let me say at the outset that not all sweepstakes mailings are deceptive. Promoters of legitimate sweepstakes have nothing to fear from this legislation.

In August, the General Accounting Office testified before the Subcommittee on Postal Service of the Committee on Government Reform that data has been collected to suggest that consumers were having substantial problems with deceptive mail. The Federal Trade Commission, the American Association of Retired Persons, the National Consumers League also testified on their research in this area and the need for reform to protect consumers.

The Chief Postal Inspector testified on the Postal Inspection Service's need for subpoena power and other additional powers to combat fraudulent mailings. Representatives of the marketers, who send sweepstakes mailings, also testified before the subcommittee. And I think the gentleman from New York (Mr. McHUGH) has done a great job of producing a bill that reflects input from all the diverse points of view.

H.R. 170 requires sweepstakes mailings to clearly and conspicuously display statements informing consumers that no purchase is necessary to enter the sweepstakes, and that making a purchase or purchases will not increase their chances of winning. I believe this is very important. Because the problem often is that consumers spend large sums of money to order products they do not need all in the mistaken belief that this will increase their chances of winning. It does not. If consumers wish to purchase a product or products, fine, but they need to be made fully aware that this bears no relation to the odds of winning.

With respect to their odds of winning, H.R. 170 requires this be clearly disclosed as well. Further, any check facsimile must include a statement on the check itself that it is nonnegotiable and has no cash value. H.R. 170 also strengthens existing laws regarding government look-alike mailings.

H.R. 170 grants the Postal Service additional authority to combat fraudulent sweepstakes mailings and civil penalties for fraudulent mailings also are significantly increased.

This legislation does not preempt more restrictive State laws in this area. A number of State Attorneys General, including the Indiana Attorney General, has been working very hard on behalf of victims of fraudulent sweepstakes. It is my hope that all my colleagues will support H.R. 170.

Mr. McHUGH. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. LATOURETTE). And I should hasten



to add, having just heard from one of the newest members of the Subcommittee on Postal Service, the gentleman from Florida (Mr. MILLER), we now have the opportunity to hear from one of the more senior members, and certainly one of the most active members on the subcommittee, not just on this legislation but on the broad expansion of issues that we deal with. I am delighted he is able to join us on the floor today to make comments on this initiative.

Mr. LATOURETTE. Mr. Speaker, I thank the chairman for the kind words, and I rise in strong support of H.R. 170, the Honesty in Sweepstakes Act of 1999.

I want to thank and congratulate my friend, the gentleman from New Jersey (Mr. LOBIONDO) and also congratulate the chairman of the subcommittee, the gentleman from New York (Mr. MCHUGH), and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for their diligence in ensuring that Americans, and the elderly in particular, are protected from unscrupulous and deceptive mailings.

The need for this legislation, Mr. Speaker, was illustrated to me rather clearly this year when we conducted a survey in our district called "Operation Senior Sweep." The project proved to me that seniors are ruthlessly targeted by these companies, and the more they respond the more mailings they received. The highly personalized mailings often lead folks to believe they have won something when they have not. And there is also strong evidence that people believe their chances of winning increase if they purchase something. Often the disclaimers are buried in very fine print.

We found, for instance, one Reader's Digest sweepstakes that carried a 2 million prize. The odds of winning, buried in very tiny type, were one in 199 million. Mr. Speaker, the odds of having quintuplets in this country are one in 85 million. My grandmother, at 89, is more likely to have quintuplets than she is to win the Reader's Digest sweepstakes.

It is obviously the legislation authored by the gentleman from New Jersey (Mr. LOBIONDO) is needed, and it is also clear that some companies know the jig is up when it comes to their deceptive mailings. I will submit for the RECORD a letter dated September 17, 1999. This letter was received by the elderly sister of a woman who lives in my district. It is from the Time Customer Service and, in effect, the company says it cannot process the woman's order for Time because she has already ordered too many magazines and books through a sweepstakes.

This is a staggering admission of wrongdoing on Time's part, I believe. But, unfortunately, this corporate good Samaritan act is way too late to help this elderly woman. One less magazine

subscription is not going to help her. She has already lost everything she has owned and saved on sweepstakes.

I also noticed on the plan yesterday a news story about the company that holds the American Family Publishers sweepstakes contests. It announced Friday that it has filed for Chapter 11 bankruptcy after being sued so many times over deceptive and misleading mailings. This is a sweepstakes, Mr. Speaker, that is pitched by celebrity spokesmen Ed McMahon and Dick Clark.

Mr. Speaker, I do not know what Ed McMahon has planned for New Year's Eve, but I do hope that Dick Clark welcomes the new year and the millennium by dropping the ball on American Family Publishers. Mr. Clark should save his good reputation, stick to American Bandstand and ditch American Scamstand.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

As we have heard here today, this bill truly is the product of bipartisanship and it started with the gentleman from California (Mr. CONDIT) and the gentleman from New Jersey (Mr. LOBIONDO) and their work, and I think carried through with the support of the gentleman from Indiana (Mr. BURTON), the chairman of the Committee on Government Reform, and the ranking member of the full committee, the gentleman from California (Mr. WAXMAN), as well as the gentleman from Pennsylvania (Mr. FATTAH) and the gentleman from Illinois (Mr. DAVIS), and all the members on both sides of the aisle.

So this is, as we have heard repeatedly, a bill whose time has come. I urge all our colleagues to join us in supporting it.

Mr. LANTOS. Mr. Speaker, I rise today in strong support of H.R. 170, the "Honesty in Sweepstakes Act of 1999." This legislation will curb the devastating effects of one of the most troubling consumer abuses—deceptive and misleading sweepstakes and other mass mail promotions. This legislation will help end this horrendous practice which has been devastating financially and emotionally to many seniors and other individuals on limited budgets.

Mr. Speaker, millions of Americans receive sweepstakes letters each year that use deceptive marketing ploys to encourage the purchase of magazines and other products. Many of my constituents, especially seniors, regularly receive these offers for products in the mail that include extravagant promises of money and prizes in order to entice them to make unnecessary and unneeded purchases.

Some common ploys used by unscrupulous mailers include "promises" of huge winnings printed in large type and other enticements such as "immediate response required—\$1 million cash payment pending." While these promises scream out in bold letters, the real details and conditions are hidden in fine print at the bottom of the last page where it is hard to find and particularly hard for seniors to read.

Mr. Speaker, each year millions of consumers nationwide are deliberately misled into believing that they have won or are likely to win a sweepstakes, when, in fact, they have neither won, nor are they likely to win. The Honesty in Sweepstakes Act requires that all mailings which offer prizes through games of chance clearly state that the recipient has not automatically won.

Another disgusting and deceptive method, Mr. Speaker, is sending mailings which contain slips of paper which are deceptively printed to look like cashier's checks, but which are actually worthless. These marketing tactics unfairly prey on people's hopes and dreams. H.R. 170 requires that all sweepstakes mailings that contain look-like cashier's checks prominently display that the check itself is non-negotiable and has no cash value.

One deceptive practice which I find particularly offensive is sending mailings which are designed to look like a mailing from a Federal government agency. Seniors have been particularly vulnerable to these tactics, because they are generally more trusting of these mailings. H.R. 170 would prohibit mailings that suggest that they are sanctioned by or connected with the federal government.

Mr. Speaker, H.R. 170 also requires companies that send sweepstakes or "skill contests" through the mail to establish a notification system, similar to the "do not call" lists of telemarketers under which consumers can call a toll-free number to be removed from mailing lists. The legislation also requires that all sweepstakes mailings contain information about the existence of such "do not mail" lists and how a consumer can place his or her name on such a list. I am pleased that the bill will also permit individuals who receive a follow-up mailing after they have requested that their names be removed from a mailing list to sue sweepstakes companies in state court for violation of this law.

Mr. Speaker, many consumers spend thousands of dollars each year on deceptive sweepstakes mailings, often spending their life savings without ever winning anything. H.R. 170 will help to protect consumers from unscrupulous operators of deceptive sweepstakes scams and will help end many of the most abusive practices of the sweepstakes industry. I urge my colleagues to vote in favor of this important legislation.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 170, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### SUPPORTING NATIONAL CIVILITY WEEK

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and agree to the